



# City of Marietta Meeting Minutes CITY COUNCIL

205 Lawrence Street  
Post Office Box 609  
Marietta, Georgia 30061

**William B. Dunaway, Mayor**  
**Betty Lou Hunter, Ward 1**  
**M. C. (Pete) Waldrep, Jr., Ward 2**  
**John V. Sinclair, Ward 3**  
**G. A. (Andy) Morris, Ward 4**  
**Rev. Anthony Coleman, Ward 5**  
**James W. King, Ward 6**  
**Philip M. Goldstein, Ward 7**

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Wednesday, February 9, 2005

7:00 PM

Council Chamber

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**Presiding:** William B. Dunaway

**Present:** Betty Lou Hunter, M. C. "Pete" Waldrep, Jr., John Vincent Sinclair, G. A. "Andy" Morris, Rev. Anthony Coleman, James W. King and Philip M. Goldstein

***Also Present:***

*William F. Bruton, Jr., City Manager*

*Douglas R. Haynie, City Attorney*

*Shelia R. Hill, City Clerk*

## INVOCATION:

*Council member Betty L. Hunter gave the invocation.*

## PLEDGE OF ALLEGIANCE:

*Mayor Dunaway called on Wes Godwin who serves on the Marietta Museum of History Board of Directors to lead the pledge of allegiance.*

## PRESENTATIONS:

### **20041415 Distinguished Service Award**

Presentation of a Distinguished Service Award to Linda Sutherland for her service on the Americans with Disabilities Advisory Board.

**Not Present**

### **20050087 Trendsetter Award**

Mr. Neely Young, Publisher of Georgia Trend magazine presents to the City of Marietta the Trendsetter award recognizing our N-DEx pioneer project with the FBI for criminal data tracking.

*Mayor Dunaway called forward Neely Young, Publisher of Georgia Trend magazine, who presented the City with the first-ever "Trendsetter Award". Marietta was the winner in the Public Safety category of the larger city population category through its partnership with the FBI in the National Data Exchange (N-DEx) project.*

*City Manager Bill Bruton mentioned that the Management Information Systems (MIS) department has been recognized for a long time for their forward-thinking technological skills and advancements. Also, Marietta is pleased that they have been able to develop this useful tool for the Police Department, which will soon aid agencies worldwide.*

**Presented**

**20050117      New Superintendent of the Kennesaw Mountain National Battlefield Park**

Introduction of the Acting Superintendent of the Kennesaw Mountain National Battlefield Park, Daniel R. Brown.

*Mayor Dunaway welcomed Daniel R. Brown to the community as the Acting Superintendent of the Kennesaw Mountain National Battlefield Park.*

**Presented**

**20050136      CAFR Award**

Monte Vavra, Finance Director, accepting the Certificate of Achievement for Excellence in Financial Reporting which is the highest achievement of recognition in governmental financial reporting from the Government Finance Officers Association.

*Mayor Dunaway, joined by City Manager Bill Bruton, presented Finance Director Monte Vavra with the Certificate of Achievement for Excellence in Financial Reporting given by the Government Finance Officers Association.*

**Presented**

**PROCLAMATIONS:**

**20050126      In Memory of George Bentley**

In memory of George Bentley who died January 25, 2005 and declaring today, February 9, 2005 as a day to honor his life. Accepting the proclamation will be June, his widow and Ed, his son.

*Mayor Dunaway presented a proclamation to the widow of George Bentley who died January 25, 2005, and declared February 9, 2005 as a day to honor him as a respected leader of the community.*

**Presented**

**CONSENT AGENDA:**

**Consent agenda items are marked by an asterisk (\*).**

**(A public hearing will be held only for those items marked by an asterisk that require a public hearing, which is so noted below the agenda item.)**

*Mayor Dunaway succinctly explained the consent agenda process. The following amendments were made to the agenda:*

*-under Other Business: Agenda item 20050055 was added to the consent agenda and amended within the agreement regarding the property being conveyed as is, where is, and the purchase price of the land shall be \$1.00 per square foot minimum.*  
*-under Other Business: Agenda item 20050066 was added to the consent agenda and should read, "Motion to approve the Cobb County Department of Transportation's request for an Underground Utility Variance on Fairground Street, contingent upon written agreement from Comcast that the facilities will be relocated underground, at Comcast's expense, at the time that any other utilities on these poles are relocated underground, relocation underground shall be at the discretion of the City. This variance does not grant permission to cross the street."*

*Mayor Dunaway opened the public hearing for items on the consent agenda requiring a public hearing. Seeing no one wishing to speak, the public hearing was closed.*

**A motion was made by Council member Sinclair, seconded by Council member Hunter, to approve the consent agenda as modified. The motion carried by the following vote:**

**Vote: 7 - 0 - 0**

**Approved**

*with the following exception:*

*-Council member Goldstein abstaining on agenda item 20050055*  
*-Council member Goldstein voting against agenda item 20050119*  
*-Council member King voting against agenda item 20050119 and 20050121*  
*-Council member Coleman voting against agenda item 20050121*

## **MINUTES:**

**\* 20050069 Regular Meeting - January 12, 2005**

Review and approval of the January 12, 2005 regular meeting minutes.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approved**

## **MAYOR'S APPOINTMENTS:**

**\* 20050137 MHA Appointment**

Appointment of Cathy Colquitt Kampa to fill the unexpired term of Elaine Armster with term expiring 5/29/2007.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approved**

## **CITY COUNCIL APPOINTMENTS:**

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\*      **20041409      Planning Commission (Ward 4)**

Appointment of Michael G. Wilson to the Planning Commission, Ward 4, for an unexpired term of three years. The term will become effective immediately and expire on January 14, 2008.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approved**

**ORDINANCES:**

**20041352      Z2005-02 James Collins portions of 137 and 325 Austin Avenue**

*Ord 6767*      Z2005-02 JAMES COLLINS requests rezoning for property located in Land Lot 1141, portions of parcel 7 and 27, 16th District, 2nd Section, Marietta, Cobb County, Georgia and being known as portions of 317 and 325 Austin Avenue from R4 (Single Family Residential) to CRC (Community Retail Commercial). Ward 6A.

*Mayor Dunaway opened the public hearing, and City Attorney Douglas Haynie explained the rules of order for rezoning hearings and swore in those wishing to speak.*

*The applicant James Collins requested rezoning of property known as 317 and 325 Austin Avenue from R-4 (Single Family Residential) to CRC (Community Retail Commercial) to be used for the purpose of commercial use. There would be no physical change to the property that has been used for commercial use in previous years. There would be no access to Austin Avenue from the property and no disturbance to the current residential area.*

*Mayor Dunaway closed the public hearing.*

*A motion was made by Council member King, seconded by Council member Hunter, to approve the rezoning as requested.*

*Discussion was held regarding stipulations for the rezoning.*

*The motion was amended to approve the rezoning as requested with the following stipulations:*

- 1. As permitted under the Zoning Ordinance, Section 706, Nonconforming Uses, use of the residential structures will be allowed to continue until either the use of the structure changes or the residential use is discontinued for a period of 6 months or 18 months during any 3-year period.*
- 2. Once the use changes, there shall be neither further access nor any access to the properties from Austin Avenue, and access to the property shall only be from Cobb Parkway through a permanent access easement.*
- 3. Further, at the time that the property is developed for commercial use, a 40-foot landscaped buffer shall be established adjacent to the residential property on*

*Austin Avenue, and the buffer must include a solid fence or wall no less than 6 feet in height.*

*4. At no time shall there be commercial access to Austin Avenue.*

*5. A 10 foot buffer will be required along the Austin Avenue right of way.*

*6. All erosion control measures required by the Public Works Department must be completed.*

*Mr. Collins agreed to the stipulations read for the record.*

**The motion was made by Council member King, seconded by Council member Hunter, that this matter be Approved as Stipulated. The motion carried by the following vote:**

**Vote: 7 - 0 - 0**

**Approved as Stipulated**

## **RESOLUTIONS:**

### **CITY ATTORNEY'S REPORT:**

**\* 20050110 Denial of Claim**

Denial of Claim of Dawn Jackson and Estate of Paul D. Johnson, Jr.

**This Matter was Approved to Deny Claim on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approved to Deny Claim**

**\* 20050142 Denial of Claim**

Denial of Claim of David Mitchell

**This Matter was Approved to Deny Claim on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approved to Deny Claim**

### **CITY MANAGER'S REPORT:**

### **MAYOR'S REPORT:**

*Mayor Dunaway mentioned that Deputy Police Chief Ken Ball, who has been with the police department for 29 years, has accepted the position of Police Chief in Holly Springs Georgia.*

*Mayor Dunaway also wanted to express his opinion regarding agenda item 20050119 regarding a pay increase for the Mayor and City Council for the next term. He stated that he would decline the pay increase if he were elected Mayor for a second term.*

## **COMMITTEE REPORTS:**

### **1. Economic/Community Development: John V. Sinclair, Chairperson**

**20050015 MRC By-laws Recommendations**

Motion to approve the proposed amendments to the bylaws of the Marietta Redevelopment Corporation to remove all elected officials from the Board of Directors and provide a minimum of seven (7) and a maximum of eleven (11) directors.

*A motion was made by Council member Sinclair, seconded by Council member Goldstein, to approve the proposed amendments to the bylaws of the Marietta Redevelopment Corporation to remove all municipal elected officials from the Board of Directors and provide a minimum of seven (7) and a maximum of eleven (11) directors.*

*A substitute motion was made to add the Mayor as a non-voting member to the bylaws of the Marietta Redevelopment Corporation and to remove all other municipal elected officials from the Board of Directors and provide a minimum of seven (7) and a maximum of eleven (11) directors.*

**The motion was made by Council member Waldrep, seconded by Council member King, that this matter be Approved as Amended. The motion carried by the following vote:**

**Vote: 4 - 3 - 0**

**Approved as Amended**

Vote Against: 3 - Betty Lou Hunter, John Vincent Sinclair and Philip M. Goldstein

**\* 20050065 CDBG Program Funding Amendment**

*Ord 6768*

Budget Amendment to allocate CDBG Program Funding resources for renovations and site improvements at the Lawrence Street and Elizabeth Porter Recreation Centers.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approved**

**\* 20050076 Manget Request For Proposal Report**

Motion to authorize advertisement of the proposed rezoning of properties from the existing residential zoning to Planned Residential Development (PRD-MF) zoning for the Manget Project. The properties following list

DLP ADDRESSES

16 12880 0650 452 FRASIER ST  
16 12870 0140 468 FRASIER ST  
16 12870 1150 476 FRASIER ST  
16 12870 1120 477 FRASIER ST  
16 12870 1110 483 FRASIER ST  
16 12870 1190 484 FRASIER ST  
16 12870 1160 486 FRASIER ST  
16 12870 1130 487 FRASIER ST  
16 12870 1170 494 FRASIER ST  
16 12870 1140 497 FRASIER ST

16 12870 1180 506 FRASIER ST  
16 12870 1200 510 FRASIER ST  
16 12870 0860 463 HALEY ST  
16 12870 0210 465 HALEY ST  
16 12870 0880 467 HALEY ST  
16 12870 0900 489 HALEY ST  
16 12870 0920 495 HALEY ST  
16 12870 0930 497 HALEY ST  
16 12870 0940 499 HALEY ST  
16 12870 0950 507 HALEY ST  
16 12870 0970 513 HALEY ST  
16 12880 0670 253 MANGET ST  
16 12880 0680 263 MANGET ST  
16 12880 0690 275 MANGET ST  
16 12880 0700 285 MANGET ST  
16 12870 0190 246 SOUTH AVE  
16 12870 0200 258 SOUTH AVE

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approved**

## **2. Finance/Investment: Philip M. Goldstein, Chairperson**

### **\* 20050039 American Legion Post 29 Donation**

*Ord 6769* Ordinance authorizing transfer of \$1000 donation from 101-0000-453-0300 fund into fire accounts.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approved**

## **3. Judicial/Legislative: M. C. "Pete" Waldrep, Jr., Chairperson**

## **4. Parks, Recreation and Tourism: Rev. Anthony Coleman, Chairperson**

## **5. Personnel/Insurance: Betty L. Hunter, Chairperson**

### **\* 20050049 Reorganization of Certain City/BLW Departments and Positions**

*Ord 6770* An ordinance amending the FY2004-2005 City of Marietta/BLW position allocation chart and pay and classification plans as adopted by Ordinance 6677, as amended, so as to reorganize certain departments and positions in the City/BLW.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approved**

### **\* 20050135 Budget Amendment for Reorganization**

*Ord 6771* Ordinance amending the budget for reorganization of certain departments.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approved**

**\* 20050119 Compensation for Mayor and Council**

Motion to authorize advertisement to hold two public hearings to consider an amendment to the Marietta City Charter to provide for a change in the compensation for the Mayor and members of City Council.

**This Matter was Approved on the Consent Agenda.**

**Vote: 5 - 2 - 0**

**Approved**

Vote Against: 2 - James W. King and Philip M. Goldstein

**\* 20050127 Annual Review of City Manager's Contract**

C/A 3023 Motion to approve the amended contract of City Manager William F Bruton, Jr.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approved**

**6. Public Safety Committee: G. A. "Andy" Morris, Chairperson**

**\* 20050068 MPD's Standard Operating Procedures**

Motion to approve adoption of Standard Operating Procedures dealing with Ride Along Program (A036), Awards & Commendations (A042) and GCIC & NCIC Computers Systems (A046) in order to maintain accreditation status.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approved**

**7. Public Works Committee: James W. King, Chairperson**

**\* 20050052 No Parking Zone on Camp Street**

Motion to approve the removal of the No Parking Zone designation on Camp Street between Maple Avenue and Stewart Avenue.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approved**

**\* 20050059 TIP Rebalancing**

Motion to authorize the Public Works Department to forward the proposed budget transfers for the 1994 Transportation Improvement Program projects to the Cobb County Department of Transportation:

1. transfer \$1,386,058.14 from Project No. 7404-19 for the Lake/Dodd Extension to Project No. 7404-35 for the Roswell Street Improvements, and



1. transfer \$383,423.59 from Project No. 7403-16 for Frey's Gin/Chert Road to Project No. 7404-35 for the Roswell Street Improvements.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approved**

**\* 20050078 Intersection Control at North Avenue and Tower Road.**

Motion to approve the request from the Cobb County Department of Transportation for a temporary All Way Stop at the intersection of North Avenue and Tower Road contingent upon a sunshine date set for January 1, 2007.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approved**

**SCHEDULED APPEARANCES:**

**UNSCHEDULED APPEARANCES:**

*Mayor Dunaway opened the floor for unscheduled appearances.*

*Greg Linton, who resides at 160 South Avenue, spoke concerning agenda item 20050076 regarding the advertisement of the proposed rezoning of properties from the existing residential zoning to Planned Residential Development (PRD) zoning for the Manget Project. Mr. Linton wanted it clarified as to which PRD zoning would apply to this property, multi-family or single-family. Acting Planning and Zoning Director Rusty Roth stated that the zoning would be PRD-MF because under that zoning a development could be multi-family or single-family.*

**OTHER BUSINESS:**

**20041230 V2004-28 Camfaux 1901 Terrell Mill Road**

Motion to approve a request from Camfaux for a sign variance for property located in Land Lot 07310, 17th District, Parcel 0030, 2nd Section of Cobb County, Marietta, Georgia and being located at 1901 Terrell Mill Road. Variance to waive the mandatory design requirement for signs to be monument based.[714.04(E)]; variance to waive the requirement for the numerical address of the property to be included on the sign [714.04(E)]; variance to increase the maximum sign height requirement for detached signs in a shared commercial space from 20 feet to 35 feet [714.05.A.Table I]; variance to increase the maximum area of a sign face for detached signs in a shared commercial space from 160 square feet to 326 square feet [714.05.A.Table I]; variance to waive the requirement that materials, colors, and shapes of the proposed sign structure be compatible with the principle building [714.04].

*Mayor Dunaway opened the public hearing and seeing no one wishing to speak, the public hearing was closed.*

*A motion was made by Council member King to deny the request for a sign variance due to the absence of the applicant.*

*Discussion was held and it was the consensus of the council to take no action regarding this matter.*

*Council member King withdrew his motion.*

**No Action Taken.**

**20041309 CA2005-04 Amendment to Sign Ordinance for Fee Changes**

C/A 6772

Ordinance to amend Section 714.02 Permit Requirements of the Sign Ordinance of the City of Marietta regarding permit fees for permanent signs.

*Acting Planning and Zoning Director Rusty Roth explained that a recent change of ordinances and procedure has created a situation in which signs are being double-permitted. Signs, and especially monument signs are considered structures, and as such, the department of public works requires building permits for every sign. The sign ordinance also requires that a sign permit be issued for every sign, which results in two permits being issued for each sign. Staff agrees that this situation is not proper, and therefore, is proposing to eliminate the sign permit fees for permanent signs in the sign ordinance. The result of this change would be to have one permit for any permanent sign, and the fee would be based on building permit fees that are currently charged by the department of public works.*

*Mayor Dunaway opened the public hearing and seeing no one wishing to speak the public hearing was closed.*

**A motion was made by Council member Waldrep, seconded by Council member King, that this matter be Approved. The motion carried by the following vote:**

**Vote: 6 - 0 - 1**

**Approved**

Abstain: 1 - John Vincent Sinclair

**20041443 Historic Preservation Ordinance**

Ordinance to amend the Municipal Code of Marietta to add Article 7-8-9, Historic Preservation Ordinance.

*Mayor Dunaway opened the public hearing and called forward those wishing to speak.*

*Greg Linton, who resides at 160 South Avenue, expressed appreciation for this matter being put back on the agenda and feels that it is a positive step for the city. However, Mr. Linton stated that he was concerned with the area of the proposed ordinance that required four (4) members of the commission to be property owners in the downtown district. With this requirement and the requirement that sixty (60)*

*percent of the owners agree to be included in an historic district, there is no guarantee that the downtown area would be designated. The emphasis should be on the best-qualified people to serve on the commission instead of representatives from a certain area.*

*Becky Payton, who resides at 607 Longstreet Drive, asked that council consider having only five (5) voting members on the commission, which has worked well for the Cobb County Historic Preservation Commission. Another consideration would be to forego the fees charged for applications, which may be a draw back for some citizens.*

*Council member Waldrep questioned whether the Cobb County Commission included any staff persons, to which Ms. Payton answered yes. There is one staff person that works with the commission who also works in the planning department for the county. Council member King inquired whether the staff person had expertise in historic preservation. Ms. Payton stated that Kim Sawyer holds that position and does have experience in the field of historic preservation.*

*Mayor Dunaway closed the public hearing.*

*Council member Hunter suggested that this matter be continued to allow time to consider the issues raised.*

*Motion to table this matter until the March 9, 2005 regular City Council Meeting, and to place the item on the next Judicial/Legislative Committee Meeting agenda.*

**A motion was made by Council member Hunter, seconded by Council member King, that this matter be Tabled. The motion carried by the following vote:**

**Vote: 7 - 0 - 0**

**Tabled**

*The meeting was adjourned at 7:55 p.m. and reconvened at 7:56 p.m.*

**20050054      Chesterfield and Carriage Oaks Drive**

Motion to approve the installation of an All Way Stop at the intersection of Chesterfield Place and Carriage Oaks Drive.

**A motion was made by Council member Morris, seconded by Council member Sinclair, that this matter be Denied. The motion failed by the following vote:**

**Vote: 3 - 4 - 0**

**Denied**

Vote Against: 4 - Betty Lou Hunter, Rev. Anthony Coleman, James W. King and Philip M. Goldstein

**\*      20050055      Closing a portion of Fairlane Drive**

*Res 2005-1371*

A Resolution authorizing the closing of a portion of Fairlane Drive within the city of Marietta.

*Motion to approve this matter with an amendment to the language of the agreement regarding the property being conveyed as is, where is and the purchase price of the*

*land shall be \$1.00 per square foot minimum.*

- \*     **20050055**     **Closing a portion of Fairlane Drive**  
      *Res 2005-1371*     A Resolution authorizing the closing of a portion of Fairlane Drive within the city of Marietta.
- Motion to approve with an amendment to the language of the agreement regarding the property being conveyed as is, where is and the purchase price of the land shall be \$1.00 per square foot minimum.*
- This Matter was Approved on the Consent Agenda.**
- Vote: 6 - 0 - 1**                             **Approved**  
                  Abstain: 1 - Philip M. Goldstein
- \*     **20050066**     **Underground Utility Variance request**
- Motion to approve the Cobb County Department of Transportation's request for an Underground Utility Variance on Fairground Street, contingent upon written agreement from Comcast that the facilities will be relocated underground, at Comcast's expense, at the time that any other utilities on these poles are relocated underground, relocation underground shall be at the discretion of the City. This variance does not grant permission to cross the street.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 - 0 - 0**                             **Approved**
- \*     **20050121**     **Manget Project Budget Amendment**  
      *Ord 6773*     Ordinance amending the budget to include purchased property for the Manget Project.
- This Matter was Approved on the Consent Agenda.**
- Vote: 5 - 2 - 0**                             **Approved**  
                  Vote Against: 2 - Rev. Anthony Coleman and James W. King
- \*     **20050143**     **City Clerk and BLW Board Manager Compensation**  
      *Ord 6774*     An Ordinance amending the compensation of the City Clerk and BLW Board Manager.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 - 0 - 0**                             **Approved**
- \*     **20050132**     **BLW Actions - February 7, 2005**
- Review and approval of the actions and minutes of the Marietta Board of Lights and Water Works (BLW) for the February 7, 2005 regular meeting.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approve**

**ADJOURNMENT:**

*The meeting was adjourned at 7:57 p.m.*

**Date Approved: March 9, 2005**

\_\_\_\_\_  
**William B. Dunaway**

**Attest:** \_\_\_\_\_  
**Shelia R. Hill, City Clerk**